

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

IN RE: BAIR HUGGER FORCED AIR      MDL No.: 15-md-02666 (JNE/FLN)  
WARMING PRODUCT LIABILITY  
LITIGATION

This Document Relates To:

MARY MILLER,

Civil Action No.: 17-CV-03809-JNE-FLN

Plaintiff,

---

**DECLARATION OF DONALD C. GREEN II IN SUPPORT OF  
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Donald C. Green II, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff Mary Miller in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1124] filed on March 1, 2018.
3. Ms. Miller contacted Kennedy Hodges, LLP in August of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Ms. Miller's treatment were obtained by Kennedy Hodges through its third party medical records retrieval company. Those records indicated that a Bair Hugger device was used during her initial orthopedic surgery.

5. This case was filed on August 17, 2017 to comply with the statute of limitations deadline.
6. Phone calls were placed and letters were sent to Ms. Miller by staff at Kennedy Hodges in August 2017 in an attempt to reach her and obtain information to complete the Plaintiff Fact Sheet.
7. On September 6, 2017, Mr. Joseph Miller, Jr., the son of Ms. Miller, spoke with staff at Kennedy Hodges and stated that his mother had passed away in 2016. We were not aware of Ms. Miller's passing until this date.
8. Mr. Miller spoke with staff at Kennedy Hodges on November 14, 2017 regarding the Plaintiff Fact Sheet. However, we were unable to obtain all information necessary to complete the Plaintiff Fact Sheet from Mr. Miller at this time.
9. After this conversation, additional phone calls were placed and letters were sent to Mr. Miller by staff at Kennedy Hodges in an attempt to reach him and obtain information to complete the Plaintiff Fact Sheet. These communication attempts were made between December 2017 and March 2018.
10. To date, Kennedy Hodges has not received a response to these phone calls and letters in order to provide the information necessary to complete the Plaintiff Fact Sheet.
11. As we have been unable to obtain the additional information necessary to complete the Plaintiff Fact Sheet for this claim, we have not been able to cure the alleged deficiencies pertaining to the Plaintiff Fact Sheet that has been submitted for this case.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing  
is true and correct.

March 8, 2018

/s/ Donald C. Green II  
Donald C. Green II